

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

GEORGE HOCKENBURY,

Plaintiff,

vs.

WILKES-BARRE HOSPITAL
COMPANY, LLC (d.b.a. WILKES-
BARRE GENERAL HOSPITAL),

Defendant.

3:10-CV-00170

(Judge Kosik)

MEMORANDUM AND ORDER

We have before us a defense motion for summary judgment in a case brought by plaintiff under the Fair Labor Standards Act ("FLSA") and the Pennsylvania Minimum Wage Act.

Plaintiff claims he was employed as a laboratory supervisor and was paid on an hourly basis. He claims he regularly worked in excess of 40 hours per work week. On such occasions, defendant failed to pay plaintiff overtime compensation calculated at one-and-one-half times his regular hourly pay rate. Instead, defendant paid plaintiff at his straight time rate for the overtime hours.

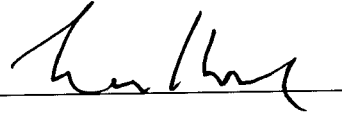
Defendant denies that plaintiff was entitled to overtime compensation based on plaintiff's method of calculation because plaintiff was paid a salary as a learned professional, thereby exempting plaintiff's status from the claimed overtime method of calculation.

Both sides have briefed their respective positions with persuasive authorities. Regrettably, the true status of plaintiff may have been colored by the accounting system employed by the defendant. At this stage of the case, we are to view any disputed facts in a light most favorable to the non-naming party. In the circumstances, we believe there remains genuine issues of material fact which

necessitate a trial.

The defense motion for summary judgment is **DENIED**. The case will be set for a pre-trial conference. If requested by the parties, we can refer the case to a court approved mediator schooled in the field of labor law.

SO ORDERED.



Edwin M. Kosik
United States District Judge

Date: April 15th, 2011